IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 19838 of 2006

DATE OF DECISION: 22.1.2007.

Karamjeet Kaur and another ....Petitioners

Versus

State of Punjab and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr.H.S. Sirohi, Advocate
for the petitioners.

J.S. Khehar, J.

Petitioner No.1 qualified the Matriculation examination in the year 1998 and graduated in Arts, with Punjabi as one of the subjects, in the year 2003. He thereafter enrolled himself for the B.Ed. course at the Shri Rawatpura Sarkar International University, Raipur, Chhattisgarh, and qualified the same. Likewise, petitioner No.2 qualified the Matriculation examination in the year 1998 and graduated in Arts, with Punjabi as one of the subjects, in the year 2003. He also enrolled himself for the B.Ed. course at the Shri Rawatpura Sarkar International University, Raipur, Chhattisgarh, and qualified the same.

The Department of Rural Development and Panchayat invited applications, for appointment of teachers in rural areas of Punjab, through an advertisement dated 25.11.2006. The petitioners, on the basis of the qualifications possessed by them, considered themselves eligible

and, therefore, responded to the aforesaid advertisement well before the last date of submission of application forms.

According to the criterion, for determination of merit laid down by the respondents, both the petitioners were of the view, that they ought to have made the grade in the zone of selection. Despite thereof, the respondents did not accept their application forms on account of the fact, that neither of the petitioners possessed a valid B.Ed. degree. In this behalf, the petitioners were informed that the B.Ed. degree acquired by them from Shri Rawatpura Sarkar International University, Raipur, Chhattisgarh, could not be considered while determining their eligibility for appointment against the advertised posts.

The petitioners herein have, therefore, approached this Court to seek a direction to the respondents to accept the application forms submitted by them in response to the advertisement dated 25.11.2006, by treating them eligible for the advertised posts.

In view of the factual position noticed hereinabove, the only issue that needs to be adjudicated upon, while determining the controversy raised by the petitioners is, whether the qualification acquired by the petitioners from the Shri Rawatpura Sarkar International University, Raipur, Chhattisgarh, is valid and can be taken into consideration.

This issue has necessarily to be determined in the background of the decision rendered by the Apex Court in Prof. Yashpal and another V. State of Chhattisgarh and others, Judgments Today 2005 (2) Supreme Court 165. In the aforesaid case, the Apex Court declared as ultra vires sections 5 and 6 of the Chhattisgarh Niji Kshetra

Vishwavidyalaya (Sthapana aur Viniyaman) Adhiniyam, 2002. In view of the decision rendered by the Apex Court in Prof. Yashpal's case (supra) the Institute from which the petitioners acquired the B.Ed. qualification cannot claim the status of University. After the decision of the Supreme Court in Prof. Yashpal's case (supra), it is not possible for us to accept the contention of the learned counsel for the petitioners that the qualification acquired by the petitioners cannot be treated as a valid qualification for appointment against the advertised posts.

Finding himself in the aforesaid predicament, learned counsel for the petitioners placed reliance on a decision rendered by a Full Bench of this Court in Neelam Kumari V. State of Punjab and others, 1993(1) Recent Services Judgments 327, and invited this Court's attention to the following observations made therein:-

> " Although in the present case it was not disputed that the Haryana Government had issued the Diploma Certificate in Final Arts and Crafts Teacher Training Examination, to be more sure, we called upon both the parties to produce the Diploma Certificate produced by the petitioners before the State seeking appointment. The petitioner has produced photo copy of such certificate and she also produced a photo copy of the Examination Roll of all the candidates from the Department of Industrial Training, Haryana. It is now quite clear that the certificate was issued by the Controller of Examinations, Department of Industrial Training, Haryana, in favour of the petitioner-Smt. Neelam Kumari, daughter of Parshotam Singh, having passed final Arts and Crafts

Teachers Examination, 1981 and Annexure P/1 produced in the case another certificate issued from Arya High and Training School, Gohana, that this Course taken by the petitioner was of two years session 1979-81. The name of this institution is also mentioned in the certificate issued by the Comptroller of Examination, Department of Industrial Training, Haryana. In view of the instructions Annexure P/16, this Certificate of training taken in Haryana stood recognised by the State of Punjab. When the petitioner completed this course and applied for job, such certificates were recognised by the State of Punjab and if subsequently the State of Punjab decided to de-recognise such certificates, the same would be prospectively and will not apply retrospectively. In this context reference may be made to the decision of Supreme Court in Suresh Pal and others V. State of Haryana and others, AIR 1987 Supreme Court 2027. In para 3 of the judgment, it was observed as under:-

> "Since at the time when the petitioners joined the course, it was recognised by the Government of Haryana and it was on the basis of this recognition that the petitioners joined the course, it would be unjust to tell the petitioners now that at the time of their joining the course it was recognized, yet they cannot be given the benefit of such recognition and the certificates obtained by them would be futile, because during the pendency of the course it was

derecognized by the State Government."

The aforesaid decision of the Supreme Court was also cited in Harpal Singh's case, but was not relied upon on the ground that the State of Punjab had never recognised certificates of J.B.T. obtained from the State of Haryana. In view of the instructions of the State of Punjab contained in Annexure P/16, the view expressed in Harpal Singh's case cannot be accepted as correct. Net result would be that the said training course diploma obtained by the petitioner from the Haryana State which was recognised by the State of Punjab in view of the instructions contained in Annexure P/16, would continue to be recognised as such and the claim of the petitioner for appointment as Arts and Crafts teacher on compassionate grounds under State Government instructions dated April 18, 1973, could not be denied."

In addition to the observations recorded by the Full Bench of this Court in Neelam Kumari's case (supra), learned counsel for the petitioners has also invited our attention to a letter dated 19.1.2004 issued by the Government of India, Ministry of Human Resource Development, Department of Secondary and Higher Education (Language Division), New Delhi, to the Registrar, Shri Rawatpura Sarkar International University, Raipur, Chhattisgarh. Relevant extract of the same is being reproduced hereunder:-

"Subject:-Recognition of degree/diploma/certificate issued by Shri Rawatpura Sarkar International University, Raipur (Chhattisgarh).

Sir,

I am directed to refer to your letter SRI/DO/2004/725

> dated 06th Jan 2004 regarding recognition of degrees/diplomas/certificate issued by Shri Rawatpura Sarkar International University, Raipur (Chhattisgarh) it is to say that Degree/diploma/certificate/and Pre-University Course awarded by a University to which it is recognized or required by any law does not require a separate recognition.
>
> Your University being established under the State Act (Chhattisgarh) by Gazette Notification No.F-73/77/02/HE/38 dated 09/09/02 under Chhattisgarh Nizi Kshetra Vishwa Vidyalaya (Sthapana aur Viniyaman) Adhiniyam 2002 of 2002 Degree/Diploma/Certificate issued by Shri Rawatpura Sarkar International University, Raipur (Chhattisgarh) stands automatically recognized for the purpose of the employment under Central/State Government and to higher studies in India/Abroad."

In sum and substance, the contention of the learned counsel for the petitioners is that the B.Ed. qualification acquired by the petitioners from Shri Rawatpura Sarkar International University, Raipur, Chhattisgarh, was before the decision rendered by the Apex Court in Prof. Yashpal's case (supra), and also, that the same cannot be treated to be unrecognised in view of the communication dated 19.1.2004. Learned counsel for the petitioners emphatically points out on the strength of the aforesaid letter dated 19.1.2004, that the Government of India had itself acknowledged the validity of the qualification acquired by the petitioners.

It is not possible for us to accept the aforestated contention advanced on behalf of the learned counsel for the petitioners. In this behalf, it would be pertinent to mention that the Supreme Court in Prof. Yashpal's case (supra) recorded the following observations:-

> " In order to protect the interests of the students who

> may be actually studying in the institutions established by such private universities, it is directed that the State government may take appropriate measures to have such institutions affiliated to the already existing State universities in Chhattisgarh. We are issuing this direction keeping in mind the interest of the students and also Sections 33 and 34 of the Act, which contemplate dissolution of the sponsoring body and liquidation of a university whereunder responsibility has to be assumed by the State Government. It is, however, made clear that the benefit of affiliation of an institution shall be extended only if it fulfils the requisite norms and standards laid down for such purpose and not to every kind of institution. Regarding technical, medical or dental colleges, etc. affiliation may be accorded if they have been established after fulfilling the prescribed criteria laid down by the All India Council of Technical Education, Medical Council of India, Dental Council of India or any other statutory authority and with their approval or sanction as prescribed by law."

The aforesaid observations were made by the Supreme Court in the interest of students who were studying at the institutions in question (at the time of passing of the order). The aforesaid observations are inapplicable to the facts and circumstances of the instant case on account of the fact, that the petitioners had qualified the course under reference well before the judgment of the Supreme Court, and also, because the aforesaid protection would extend to students if the conditions stipulated

in the order, extracted above, were fulfilled. Since the petitioners have not placed on the record of this case any such material, on the basis of which the Institute from where the petitioners had acquired the qualification, can be exempted from the application of Prof. Yashpal's case (supra), it is not possible for us to accept the contention advanced on behalf of the petitioners. In fact, the instant view has earlier been recorded by a Division Bench of this Court in Saiyam Saini V. Kurukshetra University, Kurukshetra and others (CWP No.7622 of 2005, decided on 16.5.2005).

In view of the above, we find no merit in this petition and the same is, accordingly, dismissed.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

January 22, 2007.
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